

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA

| | | |
|------------------------------|---|---------------------------|
| LARRY AND TAMMY WRIGHT, |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| vs. |) | Case No.: 14-cv-00527-RAW |
| |) | |
| NATIONAL LLOYDS INSURANCE |) | |
| COMPANY, MARILYN'S INSURANCE |) | |
| AGENCY, INC., and BRAD WAYNE |) | |
| PUTMAN, |) | |
| |) | |
| Defendant. |) | |

NOTICE OF REMOVAL

Defendant, National Lloyds Insurance Company, files its Notice of Removal of this proceeding from the District Court of Murray County, State of Oklahoma, in which it is now pending, to the United States District Court for the Eastern District of Oklahoma, and says:

1. This proceeding was commenced in the District Court of Murray County, State of Oklahoma, on May 19, 2014. This action is one of a civil nature.
2. Subject matter jurisdiction exists under 28 U.S.C. §1332 as the amount in controversy exceeds \$75,000.00 and the parties are diverse.
3. On November 20, 2014, dismissed without prejudice all the non-diverse Defendants: Marilyn's Insurance Agency, Inc., and Brad Wayne Putman.
(See Dismissal without Prejudice, attached as Exhibit 1.)
4. **Amount in Controversy.** The matter in dispute exceeds the sum of \$75,000, exclusive of interest and costs:

- As set forth in a letter from Plaintiffs' counsel prior to suit being filed, Plaintiffs seek policy benefits in the amount of \$36,095.82. (See letter dated 6/12/14 from Phillip N. Sanov to Randy Hunter with estimate, attached as Exhibit 2.)
- In addition to policy benefits, Plaintiffs seek damages for intentional infliction of emotional distress and mental pain and suffering, disgorgement of the increased financial benefits derived by Defendants as a direct result of Defendants' wrongful or intentional, willful, malicious and/or reckless conduct, punitive damages, and attorney's fees.
- It is probable that Plaintiffs' contractual claim of \$36,095.82 plus Plaintiffs' claims' for non-contractual damages will exceed the amount in controversy requirement of \$75,000.
- Okla. Stat. Ann. tit. 23, §9.1(B) and (C) sets forth the maximum amount of punitive damages that an insurer can be held liable for when a jury finds that the insurer has breached its duty to deal fairly and in good faith with its insured. Specifically, §9.1(B) provides for a maximum punitive damage award of (1) \$100,000, or (2) the amount of the actual damages awarded. Section 9.1(C) provides for the maximum amount of punitive damages awarded to be either (1) \$500,000, or (2) twice the amount of actual damages awarded, or (3) the increased financial benefit derived by the insurer as a direct result

of the conduct causing injury to the plaintiff and other persons or entities. It is therefore probable that Plaintiffs' punitive damage claim exceeds the amount in controversy requirement of \$75,000.00.

- Additionally, this action falls under the parameters of Okla. Stat. Ann. tit. 36, §3629(B) which provides for an award of attorney's fees and interest to the prevailing party. As such, the amount in dispute could go even higher.

4. **Diversity of Citizenship.** Plaintiffs are citizens of the State of Oklahoma. Defendant, National Lloyds Insurance Company, is a Texas corporation with its principal place of business in Waco, Texas.

Defendant prays for the removal of the above entitled cause from the State Court to this Court.

Dated this 4th day of December, 2014.

CATHCART & DOOLEY

s/W. R. Cathcart

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Certificate of Service

The undersigned hereby certifies that a true and correct copy of the above and foregoing document was mailed postage prepared this 4th day of December, 2014, to:

J. Drew Houghton, OBA #18080

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Attorney for Plaintiffs

s/W. R. Cathcart

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